

MONDAY, APRIL 4, 1994

EIGHTY-SECOND LEGISLATIVE DAY

The House met at 5:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Donnie Kelly, Smithville Church of God, Smithville, Tennessee.

Representative Buck led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 94

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Walley, West, Westmoreland, Whitson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

Representatives voting no were: Williams (Shelby) -- 1.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

Representative Cole (Carter).

Representative Napier; death of mother-in-law.

Representative Ritchie; birth of daughter.

RECOGNITION

The Speaker recognized Rep. Johnson and Super Lightweight Champion of the World Mr. Frankie "The Surgeon" Randall for remarks.

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INTRODUCTION OF RESOLUTIONS

On motion, pursuant to Rule No. 17, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

***House Joint Resolution No. 0610** -- General Assembly, Studies -- Creates special joint committee on water safety and related issues. by *Crain, *Hillis, *Jackson, *Kernell.

Conservation and Environment Committee.

***House Joint Resolution No. 0617** -- General Assembly, Directed Studies -- Creates special task force to study accountability of nonprofits organizations in use of public funds. by *DeBerry.

Finance, Ways and Means Committee.

RESOLUTIONS

Pursuant to Rule No. 17, the following resolution(s) was/were introduced and placed on the Consent Calendar for Wednesday, April 6, 1994:

House Joint Resolution No. 0618 -- Memorials, Academic Achievement -- Munford High School Academic Decathlon Team, second place finish in state competition. by *Naifeh.

House Joint Resolution No. 0619 -- Memorials, Public Service -- John T. "Tommy" Akin, Tennessee Wildlife Resources Commission. by *Herron, *Hillis.

House Joint Resolution No. 0620 -- Memorials, Public Service -- Commissioner Harold "Hoot" Gibson, Tennessee Wildlife Resources Commission. by *Herron, *Hillis.

House Joint Resolution No. 0621 -- Memorials, Interns -- Tony Centofante. by *Tindell, *Ritchie, *Severance.

House Joint Resolution No. 0622 -- Memorials, Personal Occasion -- Mr. and Mrs. A.B. Freytag, 50th wedding anniversary. by *Windle.

House Joint Resolution No. 0623 -- Memorials, Interns -- Sherry D. Mathias. by *Phillips.

House Joint Resolution No. 0624 -- Highway Signs -- "William J. Peeler Road," segment of Pittle Warren Road, Humphreys County. by *Collier.

House Joint Resolution No. 0625 -- Memorials, Personal Occasion -- Cling West, 95th birthday. by *Buck.

House Joint Resolution No. 0626 -- Memorials, Professional Achievement -- Alan D. Powell, Metro Middle School Teacher of the Year. by *Odom, *West, *Halteman Harwell, *Clark, *Robinson, *Love,

*Purcell, *Chiles, *Arriola.

House Joint Resolution No. 0627 -- Memorials, Professional Achievement -- Pamela Jean Burish, Metro Elementary Teacher of the Year. by *Odom, *Halteman Harwell, *Clark, *Robinson, *Love, *Purcell, *West, *Arriola, *Chiles.

House Joint Resolution No. 0628 -- Memorials, Professional Achievement -- Pamela J. Groom, Metro Teacher of the Year. by *Odom, *West, *Halteman Harwell, *Clark, *Robinson, *Love, *Purcell, *Arriola, *Chiles.

House Joint Resolution No. 0629 -- Memorials, Recognition and Thanks -- Sam Posey, Sr. by *Dixon, *Byrd, *Turner L, *Chumney, *Brooks, *Miller, *Kent, *Williams K, *Kernell, *Joyce, *Hassell, *Shirley, *Jones U, *Haley, *DeBerry, *Jones R.

House Joint Resolution No. 0631 -- Memorials, Retirement -- Paul Hicks. by *Owenby, *Anderson.

House Resolution No. 0168 -- Memorials, Recognition and Thanks -- Governor Ned McWherter, Speaker Emeritus of the Tennessee House of Representatives. by *Cole Ronnie, *Fisher.

House Resolution No. 0169 -- Memorials, Public Service -- Fannalea Cross, Rotary Citizen of the Year. by *Williams Micheal.

House Resolution No. 0171 -- Memorials, Professional Achievement -- Inez Crutchfield, Athena Award winner. by *Pruitt, *Turner B, *DeBerry, *Brown, *Halteman Harwell, *Chumney, *Owenby, *Hassell, *Knight, *Duer, *Brooks, *Peroulas Draper, *Williams K.

House Resolution No. 0170 -- Memorials, Sports -- 1003-1994 South Greene girls' basketball team, TSSAA Class AA state tournament runner-up. by *Davis Ronnie, *Haun.

SENATE JOINT RESOLUTIONS (Congratulatory and Memorializing)

Pursuant to Rule No. 17, the resolution(s) listed was/were noted as being placed on the Consent Calendar for Wednesday, April 6, 1994:

Senate Joint Resolution No. 0359 -- Memorials, Public Service -- Elaine McReynolds, Commissioner of Commerce and Insurance.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 2903 -- Hohenwald -- Provides supplemental health insurance for certain mayor or council members. Amends Chapter 308, Private Acts of 1923, as amended. by *Moore.

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were Held on the Clerk's desk pending third consideration of the companion House Bill as noted:

***Senate Bill No. 1983 -- Taxes, Corporations --** Authorizes tax credit for amount of taxes paid by shareholders of Subchapter S corporation paid to other states. Amends TCA, Title 67, Ch. 2, Pt. 1. (HB 2392).

***Senate Bill No. 2065 -- Education --** Provides that legislative intent in education of handicapped children is to meet needs of children but no longer to maximize their capabilities. Amends TCA 49-10-101. (HB 2116).

***Senate Bill No. 2249 -- Highways, Roads and Bridges --** Directs DOT to widen Highway 100 from Centerville to Intersection 7 in Hickman County. (HB 2092).

***Senate Bill No. 2334 -- Custody and Support --** Authorizes judges in judicial district to adopt local rule requiring both parties in domestic relations proceeding involving minor child to attend educational awareness program prior to conclusion of proceeding. Amends TCA, Title 36, Ch. 4, Pt. 1; Title 36, Ch. 6, Pt. 1. (HB 2556).

Senate Bill No. 2375 -- Education -- Requires principal to notify parent or legal guardian by certified mail, return receipt requested, each time student is absent from public school total of five cumulative days. Amends TCA, Title 49. (*HB 1815).

***Senate Bill No. 2625 -- Education --** Requires student to maintain passing grades to obtain or retain driver license. Amends TCA, Title 49, Ch. 6, Pt. 30; Title 55, Ch. 50, Pt. 5. (HB 2616).

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or Held on the Clerk's desk as noted:

House Bill No. 2864 -- Knox County -- Authorizes new locally funded positions for district attorney of 6th judicial district: five assistant district attorneys, two criminal investigators, two paralegals and two secretaries. by *Peroulas Draper, *Boyer, *Ritchie, *Tindell, *Bittle, *Armstrong, *Severance.

Judiciary Committee.

***House Bill No. 2891 -- Fire Prevention and Investigation --** Creates position of county arson investigator in Dyer County; prescribes duties. Amends TCA, Title 68, Ch. 102. by *Cole Ronnie, *Phelan.

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Finance, Ways and Means Committee.

*House Bill No. 2897 -- Civil Defense -- Transfers ownership of regional emergency operations center in Winchester from State of Tennessee to Franklin County. by *Rigsby.

Finance, Ways and Means Committee.

*House Bill No. 2900 -- Firearms and Ammunition -- Makes revisions on sale of handguns necessary to give Tennessee waiver from requirements of federal "Brady" law. Amends TCA, Title 39, Ch. 17, Pt. 13. by *Herron, *Head.

Judiciary Committee.

DELAYED BILLS REFERRED

April 4, 1994

Pursuant to Rule No. 77, the following bills were referred to the Delayed Bills Committee: House Bill(s) No(s). 2904 and 2908.

House Bill No. 2904 -- Highways, Roads and Bridges -- Provides for use in Rutherford County of borrow pits for construction purposes, provided material from borrow pit not used for supplying material for certain specified plants. by *Bragg, *Mires, *Liles.

House Bill No. 2908 -- County Officers -- Grants law enforcement authority to constables in Grundy County. Amends TCA, Title 8, Ch. 10, 40-6-210, 55-8-152, 55-9-414, 57-5-202, 57-9-101. by *Lewis.

CONSENT CALENDAR

House Bill No. 2892 -- Bristol -- Establishes penalty for unpaid personal and property taxes after January 5 of following year. Amends Chapter 84, Private Acts of 1991, as amended.

House Bill No. 2893 -- Franklin County -- Establishes four year staggered terms for school board; abolishes at large board member position. Amends Chapter 108, Private Acts of 1933, as amended.

*House Bill No. 2542 -- Teachers -- Extends term of all current career ladder II or III certificates so that none will expire before July 1, 1998. Amends TCA 49-5-5005.

On motion, House Bill No. 2542 was made to conform with Senate Bill No. 2800; the Senate Bill was substituted for the House Bill.

*House Bill No. 2603 -- Bond Issues -- Increases Tennessee Upper Duck River Development Agency's bond authority from \$200 million to \$800 million. Amends TCA, Title 64, Ch. 1, Pt. 6.

On motion, House Bill No. 2603 was made to conform with Senate Bill No. 2666; the Senate Bill was substituted for the House Bill.

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House Bill No. 2320 -- Banks and Financial Institutions -- Revises remedies for financial institutions for nonpayment of rent of safety deposit boxes. Amends TCA, Title 45, Ch. 2, Pt. 9; Title 66, Ch. 29.

On motion, House Bill No. 2320 was made to conform with Senate Bill No. 2009; the Senate Bill was substituted for the House Bill.

House Bill No. 1738 -- Highway Signs -- "Donelson Hospital," Old Hickory Boulevard and Thomas Frist, Sr. Boulevard.

On motion, House Bill No. 1738 was made to conform with Senate Bill No. 1761; the Senate Bill was substituted for the House Bill.

House Bill No. 2155 -- Psychologists -- Requires board of examiners in psychology to establish continuing education requirements for psychologists designated as health service providers and psychological examiners. Amends TCA 63-11-104.

On motion, House Bill No. 2155 was made to conform with Senate Bill No. 2485; the Senate Bill was substituted for the House Bill.

House Bill No. 1974 -- Sunset Laws -- Home improvement commission, June 30, 1996. Amends TCA, Title 4, Ch. 29; Title 62, Ch. 37.

On motion, House Bill No. 1974 was made to conform with Senate Bill No. 1936; the Senate Bill was substituted for the House Bill.

***House Joint Resolution No. 0499 -- General Assembly, Directed Studies --** Provides for study by Tennessee Advisory Commission on Intergovernmental Relations on creation, funding and management of E-911 districts.

House Joint Resolution No. 0517 -- Naming and Designating -- "L. H. 'Cotton' Ivy Laboratory," Ellington Agricultural Center.

***House Joint Resolution No. 0487 -- Naming and Designating --** "Hartsook - Stout Armory," National Guard Armory, Loudon.

***House Bill No. 2625 -- Solid Waste Disposal --** Extends expiration date relative to local approval of new landfills for solid waste disposal or processing from June 30, 1994 to June 30, 1995. Amends TCA, Title 68, Ch. 211, Pt. 7.

On motion, House Bill No. 2625 was made to conform with Senate Bill No. 2773; the Senate Bill was substituted for the House Bill.

***House Bill No. 2348 -- Handicapped Persons --** Changes name of advisory council for education of handicapped to "advisory council for education of students with disabilities"; changes references from "handicapped students" to "students with disabilities". Amends TCA, Title 49, Ch. 10.

***House Joint Resolution No. 0401 -- General Assembly, Statement**

of Intent or Position -- Urges radio and cable television stations to refrain and refuse to broadcast "gangsta rap" music.

House Bill No. 2678 -- Utilities, Utility Districts -- Authorizes health insurance coverage for members of the board of directors of municipal electric plants. Amends TCA 7-52-110.

On motion, House Bill No. 2678 was made to conform with Senate Bill No. 2634; the Senate Bill was substituted for the House Bill.

***House Bill No. 2682 -- Local Government, General --** Revises local government finances. Amends TCA, Title 5, Ch. 8, Pt. 3; Title 6, Ch. 56, Pt. 1; Title 7, Ch. 53; Title 9, Ch. 21; Title 48, Ch. 3.

House Bill No. 2842 -- Land, Agricultural and Open Spaces -- Creates deadline for filing with tax assessor to have land classified as agricultural land under Agricultural, Forest and Open Space Land Act. Amends TCA 67-5-1005.

House Bill No. 2798 -- Education, State Board of -- Requires state board of education in consultation with commissioner of safety to establish statewide DARE club for students in grades 6-12. Amends TCA, Title 49.

On motion, House Bill No. 2798 was made to conform with Senate Bill No. 2717; the Senate Bill was substituted for the House Bill.

***House Joint Resolution No. 0529 -- Memorials, Congress --** Urges development and approval of National Highway System by September 30, 1994.

***House Joint Resolution No. 0466 -- Memorials, Government Officials --** Urges U.S. Secretary of Housing and Urban Development and Community Enterprise Board to act favorably upon the City of Knoxville's applications for "empowerment zone" and "enterprise community" designations.

***House Joint Resolution No. 0545 -- Highway Signs --** "J.B. Rogers Memorial Bridge," Highway 70S, Cannon County.

House Bill No. 2890 -- Fentress County -- Restructures board of education to comply with Education Improvement Act; increases size from five to nine members. Repeals Chapter 251, Private Acts of 1975, as amended.

House Bill No. 2894 -- Paris -- Authorizes Paris Special School District to receive funds from bonds issued by Henry County. Amends Chapter 150, Private Acts of 1919, as amended.

House Bill No. 2895 -- Cleveland -- Grants city council power to establish, maintain and operate complete educational system; changes date of general city election to coincide with regular August elections. Amends Chapter 78, Private Acts of 1993, as amended.

House Bill No. 2896 -- Monterey -- Revises charter concerning

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election date. Amends Chapter 492, Acts of 1901, as amended.

House Bill No. 2899 -- Woodbury -- Revises charter. Amends Chapter 633, Private Acts of 1925, as amended.

House Resolution No. 0166 -- Memorials, Heroism -- Gene Ledbetter.

House Joint Resolution No. 0611 -- Memorials, Retirement -- James D. Hunter.

House Joint Resolution No. 0612 -- Memorials, Sports -- 1992-1993 Celina High School girls' basketball team, TSSAA state tournament semi-finalist.

House Joint Resolution No. 0613 -- Memorials, Sports -- 1993-1994 Celina High School girls' basketball team, TSSAA state tournament runner-up.

House Joint Resolution No. 0614 -- Memorials, Death -- Russell Arnold Kramer.

House Joint Resolution No. 0615 -- Memorials, Retirement -- Dr. Robert Demos.

House Joint Resolution No. 0616 -- Memorials, Sports -- Soddy-Daisy High School varsity cheerleading squad.

Senate Joint Resolution No. 0389 -- Memorials, Sports -- 1993-1994 Cleveland High School wrestling team.

Senate Joint Resolution No. 0392 -- Memorials, Public Service -- Michel Lefranc, Caen, Normandy, France.

OBJECTION -- CONSENT CALENDAR

Objection(s) was/were filed to the following on the Consent Calendar:

House Joint Resolution No. 466: by Rep. Brown.

House Bill No. 2890: by Rep. Windle.

Under the rules, House Joint Resolution No. 456 and House Bill No. 2890 was/were placed at the foot of the calendar for Wednesday, April 6, 1994.

Pursuant to Rule No. 50, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

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Ayes. 93
Noes. 0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kent, Kernell, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 93.

A motion to reconsider was tabled.

CHAIR TO DEBERRY

Mr. Speaker Naifeh relinquished the Chair to Rep. DeBerry, Speaker pro tempore.

REGULAR CALENDAR

House Bill No. 1770 -- Utilities, Utility Districts -- Increases from three to five number of commissioners for utility districts located primarily in Franklin County; provides for election of commissioners for such utility districts. Amends TCA, Title 7.

Further consideration of House Bill No. 1770, previously considered on the February 23 Consent Calendar, February 24, and March 17, 1994, at which time it was reset to the Calendar for April 4, 1994.

On motion, House Bill No. 1770 was made to conform with Senate Bill No. 1694; the Senate Bill was substituted for the House Bill.

Rep. Rigsby moved that Senate Bill No. 1694 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. 91
Noes. 0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson,

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Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 91.

A motion to reconsider was tabled.

House Bill No. 2257 -- Recycling -- Lowers costs of transporting recyclable materials intrastate to parallel federal interstate rates. Amends TCA, Title 65, Ch. 15.

Further consideration of House Bill No. 2257, previously considered on March 21, 1994, at which time it was reset to the Calendar for April 4, 1994.

Rep. Fisher requested that House Bill No. 2257 be moved down 5 places on the Calendar.

***House Bill No. 2134 -- Eminent Domain --** Gives right of first refusal to former landowner when state, county or municipality no longer needs all or part of condemned land; establishes method for sale if landowner rejects offer or fails to exercise option. Amends TCA, Title 29, Chs. 16, 17.

Further consideration of House Bill No. 2134, previously considered on March 21 and 28, 1994, at which time it was reset to the Calendar for April 4, 1994.

Rep. Williams (Williamson) moved that House Bill No. 2134 be reset to the Calendar for Thursday, April 7, 1994, which motion prevailed.

House Bill No. 1937 -- Firearms and Ammunition -- Enacts "Child and Public Protection Act of 1994". Amends TCA, Title 39, Ch. 17, Pt. 13.

Rep. Pruitt moved that House Bill No. 1937 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1937 by deleting subdivision (3) from Section 3, subsection (a), and by renumbering subdivision (4) of Section 3(a) as subdivision (3).

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AND FURTHER AMEND by deleting in its entirety the remainder of Section 3 and Section 4, by renumbering Section 5 as Section 4, and by inserting the following language in Section 3:

(b) It is an offense for a parent or guardian to recklessly fail to keep firearms and ammunition out of the possession of minors commensurate with the child's age, maturity and ability.

(c) A violation of subsection (b) is a Class B misdemeanor punishable only by a fine not to exceed five hundred dollars (\$500) or public service work not greater than two hundred fifty (250) hours, including parenting workshop hours, or both if, as a result of a violation of such subsection, the minor gains access to the firearm and displays or exhibits it in a public place or uses the firearm to cause death or serious bodily injury.

On motion, Amendment No. 1 was adopted.

Rep. Pruitt moved that House Bill No. 1937 be reset to the Calendar for Wednesday, April 6, 1994, which motion prevailed.

House Bill No. 1688 -- District Attorneys -- Creates additional assistant district attorney general position for 22nd judicial district. Amends TCA 16-2-506.

Rep. Fowlkes moved that House Bill No. 1688 be reset to the Calendar for Wednesday, April 6, 1994, which motion prevailed.

House Bill No. 2457 -- Real Property -- Enacts "Tennessee Residential Property Disclosure Act". Amends TCA, Title 63, Ch. 13, Pt. 3; Title 66, Ch. 5.

Rep. Collier moved that House Bill No. 2457 be reset one week to the Calendar for Monday, April 11, 1994, which motion prevailed.

House Bill No. 2287 -- Education -- Authorizes certain municipalities to establish school safety zones to deter drug and weapons activities.

Rep. Armstrong requested that House Bill No. 2287 be moved down 4 places on the Calendar.

**MESSAGE FROM THE SENATE
April 4, 1994**

MR. SPEAKER: I am directed to transmit to the House, Senate

Bill(s) No(s). 2014; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

***Senate Bill No. 2014 -- Recycling --** Lowers costs of transporting recyclable materials intrastate to parallel federal interstate rates. Amends TCA, Title 65, Ch. 15. by *Patten, *Eisea, *McNally, *McKnight.

REGULAR CALENDAR, CONTINUED

House Bill No. 2257 -- Recycling -- Lowers costs of transporting recyclable materials intrastate to parallel federal interstate rates. Amends TCA, Title 65, Ch. 15.

Further consideration of House Bill No. 2257, previously considered on today's Calendar.

On motion, House Bill No. 2257 was made to conform with Senate Bill No. 2014; the Senate Bill was substituted for the House Bill.

Rep. Fisher moved that Senate Bill No. 2014 be passed on third and final consideration.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 2.

Rep. Fisher moved that Senate Bill No. 2014 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	92
Noes.	0

Representatives voting aye were: Allen, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

A motion to reconsider was tabled.

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***House Bill No. 1878** -- Highways, Roads and Bridges -- Adds South Knoxville Boulevard to Scenic Highway System. Amends TCA, Title 54, Ch. 17.

Rep. Severance moved that House Bill No. 1878 be reset one week to the Calendar for Monday, April 11, 1994, which motion prevailed.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2652 and 2800; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Bill No. 2652 -- Mental illness -- Insures continuity of care for Tennessee citizens with serious mental illness. by *Crowe, *McNally, *Cooper, *Kyle, *Rice, *Gilbert.

Senate Bill No. 2800 -- Teachers -- Extends term of all current career ladder II or III certificates so that none will expire before July 1, 1998. Amends TCA 49-5-5005. by *Womack, *Crutchfield.

REGULAR CALENDAR, CONTINUED

***House Bill No. 2574** -- Mental illness -- Insures continuity of care for Tennessee citizens with serious mental illness.

On motion, House Bill No. 2574 was made to conform with **Senate Bill No. 2652**; the Senate Bill was substituted for the House Bill.

Rep. Stulce moved that **Senate Bill No. 2652** be passed on third and final consideration.

Rep. Stulce moved to adopt Amendment No. 1 as follows:

Amendment No. 1

Amend Senate Bill No. 2652 by adding to Section 4 the following new language:

Consistent with applicable eligibility requirements, the state may provide the funding for such services through the medicaid program or any waiver granted under the medicaid program, specifically including TennCare.

On motion, Amendment No. 1 was adopted.

Senate Bill No. 2652, as amended, passed on third and final consideration by the following vote:

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Ayes. 93
Noes. 0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callcott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 93.

A motion to reconsider was tabled.

House Bill No. 2309 -- Guardianship -- Removes \$10,000 threshold as requirement for appointment of fiduciary for distribution of funds to minor or disabled person. Amends TCA, Title 34, Ch. 11.

Rep. Turner (Hamilton) requested that House Bill No. 2309 be moved to the heel of the Calendar.

CHAIR TO SPEAKER

Mr. Speaker Naifeh resumed the Chair.

REGULAR CALENDAR, CONTINUED

House Bill No. 2287 -- Education -- Authorizes certain municipalities to establish school safety zones to deter drug and weapons activities. by *Armstrong, *Tindell, *Brown, *Ritchie, *Peroulas Draper, *Brooks, *Bittle, *Turner L, *DeBerry, *Thompson, *Miller.

Further consideration of House Bill No. 2287, previously considered on today's Calendar.

Rep. Armstrong moved that House Bill No. 2287 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2287 by deleting SECTIONS 2, 3 and 4 and substituting instead the following:

SECTION 2.

(a) For purposes of this act:

(1) "School" means any public or private elementary, secondary, or vocational-technical school.

(2) "School property" means all property used for school purposes, including, but not limited to, school playgrounds.

(b) A school safety zone is the territory located within one thousand (1,000) feet of school property.

(c) The superintendent of schools, with the approval of the board of education, may develop a method of marking school safety zones, including the use of signs. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a school safety zone, that such zone extends one thousand (1,000) feet from school property and that the delivery or sale of a controlled substance to a minor in such school safety zone will subject the offender to an enhanced punishment. The state board of education shall assist the local education agency in complying with the posting provisions of this subsection.

SECTION 3. This act shall take effect on July 1, 1994, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 2 as follows:

Amendment No. 2

Amend House Bill No. 2287 by adding the following new section immediately preceding the effective date section and by renumbering the subsequent section accordingly:

Section _____. If any provision of this act or the application thereof to any person or circumstance is held invalid, then all provisions and applications of this act are declared to be invalid and void.

On motion, Amendment No. 2 was adopted.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 3 as follows:

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Amendment No. 3

Amend House Bill No. 2287 by deleting Section 1 in its entirety and by substituting instead the following:

SECTION 1: Any county, with a population of not less than three hundred thirty-five thousand (335,000) nor more than three hundred thirty-six thousand (336,000) according to the 1990 federal census or any subsequent federal census, is hereby authorized to establish school safety zones.

On motion, Amendment No. 3 was adopted.

Rep. Armstrong moved that House Bill No. 2287, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	92
Noes.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kent, Kernell, Kieber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Turner (Shelby) -- 1.

A motion to reconsider was tabled.

House Bill No. 2801 -- Insurance, Health, Accident -- Increases from 90 to 120 days the time period during which fidelity bond cancellation for HMO officers and employees is effective. Amends TCA, Titles 56, 68, 71.

Rep. Rhinehart moved that House Bill No. 2801 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2801 by inserting the following

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preamble between the caption and the enacting clause:

Whereas, all Tennessee children must have access to the highest quality of health care, including the most advanced clinical care and the benefits of the most recent research in the treatment and cure of life-threatening childhood diseases; and

Whereas, St. Jude Children's Research Hospital is a unique, internationally recognized and supported center providing unsurpassed biomedical research and clinical care for children and is the only medical center in the world devoted entirely to the understanding, treatment and cure of cancer and the blood diseases of childhood, benefiting children throughout Tennessee, the United States of America and the world; and

Whereas, the unique and focused mission of St. Jude Children's Research Hospital, its advanced research, and its clinical care depend upon the availability of an appropriate patient population for the development of new treatments; and

Whereas, critically ill children in Tennessee must not be deprived of the unique care St. Jude Children's Research Hospital can provide.

AND FURTHER AMEND, by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Each managed care organization (MCO), preferred provider organization (PPO), health maintenance organization (HMO), and any other such health organizations shall provide, through direct contract with St. Jude Children's Research Hospital or otherwise, all enrollees in such health care organization with access to the health care services at St. Jude Children's Research Hospital to the extent such access is practical and feasible and such services are medically appropriate.

SECTION 2. Reimbursement to St. Jude Children's Research Hospital for the services provided pursuant to this act shall be no greater than the reimbursement rate a managed care organization would pay other entities providing similar services to its enrollees.

SECTION 3. Any dispute regarding the application of this act shall be resolved by a committee composed of the commissioner of health, the commissioner of commerce and insurance and the commissioner of finance and administration.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

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On motion, Amendment No. 1 was adopted.

Rep. Rhinehart moved that House Bill No. 2801, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	92
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

A motion to reconsider was tabled.

House Bill No. 2821 -- Motor Vehicles -- Authorizes Davidson County to regulate operation of certain trucks. Amends TCA, Titles 7, 55.

Rep. West moved that House Bill No. 2821 be passed on third and final consideration.

Rep. Robinson moved adoption of Transportation Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2821 by deleting all sections of the bill as introduced and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 55-9-105, is amended by redesignating subsections (b) and (c) to be subsections (c) and (d), and by adding the following new subsection (b):

(b) The prohibitions contained in this section shall not apply to the following:

(1) Electronic displays used in conjunction with vehicle navigation systems;

(2) Closed circuit video monitors designed to operate only in conjunction with dedicated

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video cameras and used in rear-view systems on trucks and motor homes; and

(3) Television receivers or monitors used in government-owned vehicles by law enforcement officers in the course of their official duties.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. West moved that House Bill No. 2821, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	94
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

House Bill No. 2323 -- Tennessee Higher Education Commission -- Restructures ex-officio nonvoting membership of commission. Amends TCA, Title 49, Ch. 7.

Rep. Davidson moved that House Bill No. 2323 be passed on third and final consideration.

Rep. Davidson moved adoption of Education Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2323 by adding the following as a new section immediately preceding the effective date section and by renumbering the effective date section accordingly:

Section _____. Tennessee Code Annotated, Title 49, Chapter 7, Part 2, is amended by adding the following as a

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new, appropriately designated section:

Section _____. (a) The commission shall develop and adopt rules and regulations to require each institution of higher education in this state that participates in the Federal Family Education Loan Program and/or the Federal Direct Student Loan Program, Under Title IV of the Higher Education Act of 1965 (HEA), as amended, to reimburse the state for its proportionate share of any default cost fee charged to the state by the Secretary of Education under the HEA. The rules and regulations shall provide a fee structure for determining the amount of the reimbursement for each such institution. The fee charged any institution shall be based on the institution's cohort default rate and the state's risk of loss as provided by Section 4201 of the HEA.

(b) Notwithstanding any other provisions of law, such rules and regulations may provide that an institution may be exempt from such fees or the commission may adjust an institution's fees if such institution demonstrates that exceptional mitigating circumstances contributed to its high cohort default rate.

(c) The commission shall submit the fee structure and exemption process to the commissioner of finance and administration and the Secretary of Education for review and approval prior to implementation.

Rep. Davidson moved to adopt Amendment No. 1 to Amendment No. 1 as follows:

Amendment No. 1 to Amendment No. 1

Amend House Bill No. 2323 by deleting the words "Section 4201 of the HEA." in the last sentence of subsection (a) of the amendatory language and by substituting the following words:

"Section 4201 of the Omnibus Budget Reconciliation Act of 1993."

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

Rep. Davidson moved that Amendment No. 1, as amended, be adopted which motion prevailed.

Rep. Davidson moved adoption of Education Committee Amendment No. 2 as follows:

Amendment No. 2

Amend House Bill No. 2323 by adding the following as a new

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section immediately preceding the effective date section and by renumbering the effective date section accordingly:

Section ____ Tennessee Code Annotated 49-7-204 is amended by adding at the beginning of subsection (c) the following language:

"Except as provided in § 49-7-204(a),"

On motion, Amendment No. 2 was adopted.

Rep. Davidson moved that House Bill No. 2323, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	92
Noes.	0
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives present and not voting were: Brown -- 1.

A motion to reconsider was tabled.

House Bill No. 2395 -- Tobacco, Tobacco Products -- Provides that non-profit marketing association may be formed to market, sell and harvest tobacco products grown in Tennessee. Amends TCA, Titles 4, 39, 40, 43, 49, 53, 67, 68.

Rep. Head moved that House Bill No. 2395 be passed on third and final consideration.

Rep. Bell moved adoption of Agriculture Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2395 by deleting all language following the enacting clause and by substituting instead the following:

Section 1. This act shall be known and may be cited as the "Prevention of Youth Access to Tobacco Act of 1994".

Section 2. The purpose of this act is to reduce the access of persons under the age of eighteen (18) years to tobacco products by strengthening existing prohibitions against the sale and distribution of tobacco products to such persons, prohibiting the purchase or receipt of tobacco products by such persons, limiting the sale of tobacco products through vending machines, restricting the distribution of tobacco product samples, prohibiting the sale of cigarettes or smokeless tobacco products other than in unopened packages, and random, unannounced inspections of locations where tobacco products are sold or distributed, providing for the report required to be submitted to the United States department of health and human services pursuant to Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26), and ensuring uniform regulations with respect to tobacco products within this state. It is the intent of the general assembly that this act be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants that the state of Tennessee now receives or may receive relating to the provisions of this act.

Section 3. As used in this act, unless the context otherwise requires:

(1) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association.

(2) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid.

(3) "Public place" means any public street, sidewalk or park, or any area open to the general public in any publicly owned or operated building.

(4) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.

(5) "Sampling" means the distribution of samples to members of the general public in a public place.

(6) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

Section 4. (a) It is unlawful for any person to sell or distribute any tobacco product to another person who has not attained the age of eighteen (18) years or to purchase

a tobacco product on behalf of any such person. Notwithstanding the foregoing, it shall not be unlawful to distribute a tobacco product to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.

(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained the age of eighteen (18) years to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco product.

(c) No person shall distribute tobacco product samples in or on any public street, sidewalk, or park that is within five hundred feet (500') of any playground, school, or other facility when the facility is being used primarily by persons under the age of eighteen (18) years.

(d) A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under the age of eighteen (18).

(e) A person who violates this section commits a Class A misdemeanor punishable only by a fine not to exceed two thousand five hundred dollars (\$2,500). Any person who is convicted of violating this section on three (3) separate occasions is prohibited from selling tobacco products and from possession of such products for resale for a period of five (5) years from the date of the last conviction. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section.

(f) If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be deemed guilty of the violation and be subject to the fine. If the sale is made through a vending machine, the proprietor of the establishment in which the machine is located shall be deemed guilty of the violation and be subject to the fine. Notwithstanding the foregoing, if the proprietor has made an employee responsible for supervising the machine, that employee shall be deemed guilty of the violation and be subject to the fine. If the tobacco product is distributed by an employee engaged in the business of sampling, the employee shall be deemed guilty of the violation and be subject to the fine.

(g) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for a second or subsequent violation of this section, each individual franchise or business location shall be deemed a separate entity.

Section 5. (a) It is unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own; for the purpose of purchasing or receiving any tobacco product. Notwithstanding the foregoing, it shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, from a personal acquaintance, or from an employer when required in the performance of that person's duties.

(b) A person who violates this section commits a Class C misdemeanor, punishable only by a fine of fifty dollars (\$50) or twenty-five (25) hours of community service work for a first offense and a fine of fifty dollars (\$50) and fifty (50) hours of community service work for a second or subsequent offense within a one (1) year period.

Section 6. (a) On and after July 1, 1994, every person who sells tobacco products at retail shall post conspicuously and keep so posted at the place of business a sign, no smaller than ninety-three and one half (93 1/2) square inches, to ensure that it is likely to be read at each point of sale, stating the following:

STATE LAW STRICTLY PROHIBITS
THE SALE OF TOBACCO PRODUCTS OR SMOKING
PARAPHERNALIA
TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS
PROOF OF AGE MAY BE REQUIRED

(b) A person who violates this section commits a Class C misdemeanor punishable only by a fine of twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each succeeding offense within a two (2) year period. No notice regarding tobacco products, other than the notice required by this section and the notice required by Section 39-15-411 shall be required to be posted or maintained in any store that sells tobacco products at retail.

Section 7. (a) It shall be unlawful for any person to sell tobacco products through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public.

(2) In places that are open to the public but to which persons under the age of eighteen (18) years are denied access.

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the

vending machine is under the continuous supervision of the owner or lessee of the premises or an employee thereof, and is inaccessible to the public when the establishment is closed.

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee thereof, or the machine can be operated only by the use of a token purchased from the owner or lessee of the premises or an employee thereof prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In any place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.

(c) A person who maintains a tobacco vending machine in violation of this section, or fails to demand proof of age as required, commits a Class C misdemeanor.

Section 8. (a) It is unlawful for any person to sell cigarettes or smokeless tobacco products except in the original, sealed package in which they were placed by the manufacturer that bears the health warning required by federal law.

(b) A person who violates this section commits a Class C misdemeanor.

Section 9. The general assembly intends by this act and other provisions of Tennessee Code Annotated to occupy and preempt the entire field of legislation concerning the regulation of tobacco products. Any law or regulation of tobacco products enacted or promulgated after March 15, 1994 by any agency or political subdivision of the state or any agency thereof is void; provided, however, that cities, counties and counties having a metropolitan form of government may regulate the use of tobacco products in buildings owned or leased by such political subdivision.

Section 10. The department of agriculture shall enforce this act in a manner that may reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of eighteen (18) years, and shall conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with this act. The department of agriculture shall prepare annually for submission by the governor to the secretary of the United

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States Department of health and human services the report required by Section 1926 of subpart I of Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x-26).

Section 11. Tennessee Code Annotated, Section 39-15-407, is amended by deleting items (4) and (5) in their entirety.

Tennessee Code Annotated, Section 39-15-407, is further amended by deleting the word "unemancipated" from item (2).

Tennessee Code Annotated, Section 39-15-408, is amended by deleting the section in its entirety and by substituting instead the following:

(a) It is an offense for a person to disseminate smoking paraphernalia to a minor.

(b) It is an offense to persuade, entice, send, or assist a minor to purchase, acquire, receive or attempt to purchase, acquire or receive smoking paraphernalia.

(c) A violation of this section is a Class C misdemeanor.

Tennessee Code Annotated, Section 39-15-409, is amended by deleting the language "smoking material, smoking paraphernalia, or smokeless tobacco product" and by substituting instead the language "smoking paraphernalia".

Tennessee Code Annotated, Section 39-15-410(a), is amended by deleting the language "smoking material, smoking paraphernalia or any smokeless tobacco product" and by substituting instead the language "smoking paraphernalia".

Tennessee Code Annotated, Section 39-15-411, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person who disseminates smoking paraphernalia shall prominently display in the place where such items are disseminated, either the sign required pursuant to Section 6(a) of this act or the sign required by this section prior to the effective date of this act.

(b) A violation of this section is a Class C misdemeanor.

Tennessee Code Annotated, Section 39-15-412(a), is amended by deleting the language "smoking material, smoking paraphernalia, or any smokeless tobacco product" wherever it appears and by substituting instead the language

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"smoking paraphernalia".

* Tennessee Code Annotated, Section 39-15-413, is amended by deleting the language "\$§39-15-404" and by substituting instead the language "Chapter _____ of the Public Acts of 1994 (SB 1944 / HB 2395), §§39-15-404".

Section 12. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Givens moved the previous question, which motion prevailed.

On motion, Amendment No. 1 was adopted.

Rep. Gunnels requested that Amendment No. 2 be moved to the heel of the Amendments.

Rep. Head moved to adopt Amendment No. 3 as follows:

Amendment No. 3

Amend House Bill No. 2395 by deleting the following language from Section 4(a):

Notwithstanding the foregoing, it shall not be unlawful to distribute a tobacco product to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.

AND FURTHER AMEND by deleting the following language from Section 5(a):

Notwithstanding the foregoing, it shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, from a personal acquaintance, or from an employer when required in the performance of that person's duties.

On motion, Amendment No. 3 was adopted.

Rep. Head moved to adopt Amendment No. 4 as follows:

Amendment No. 4

Amend House Bill No. 2395 by adding the following new subdivision at the end of Section 4:

(b) The owner of a store at which tobacco products are sold at retail and the proprietor of the establishment in which a vending machine is located shall also be deemed guilty of a violation of this section if such owner or proprietor knowingly permits an employee to violate the

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provisions of this section.

On motion, Amendment No. 4 was adopted.

Rep. Gunnels moved to adopt Amendment No. 2 as follows:

Amendment No. 2

Amend House Bill No. 2395 by adding the following new section to be appropriately designated:

SECTION ____ Notwithstanding any other provision of the law to the contrary, individual owners or operators of retail establishments located within an enclosed shopping mall shall retain the right to determine the policy on the use of tobacco products within such person's establishment.

On motion, Amendment No. 2 was adopted.

Rep. McDaniel moved the previous question, which motion prevailed.

Rep. Head moved that House Bill No. 2395, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	87
Noes.	5
Present and not voting.	2

Representatives voting aye were: Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Miller, Mires, Moore, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 87.

Representatives voting no were: Allen, Coffey, Herron, Odom, Shirley -- 5.

Representatives present and not voting were: Brooks, Brown -- 2.

A motion to reconsider was tabled.

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*House Bill No. 2615 -- Education -- Limits authority of local boards of education to create or approve only those positions authorized by TCA Title 49. Amends TCA, Title 49, Chs. 1, 2, 5, 6.

Rep. Winningham moved that House Bill No. 2615 be passed on third and final consideration.

Rep. Rhinehart moved all voting aye be added as sponsors. There being objection, Speaker Naifeh indicated those wishing to be added sign on in the appropriate manner.

On motion, Rep. Davidson withdrew Education Committee Amendment No. 1.

On motion, Rep. Davidson withdrew Education Committee Amendment No. 2.

Rep. Davidson moved to adopt Amendment No. 3 as follows:

Amendment No. 3

Amend House Bill No. 2615 by deleting Section 1 in its entirety and by substituting instead the following new section:

SECTION 1. Tennessee Code Annotated, Section 49-1-302(a)(16), is amended by designating the existing language as subdivision (A), and by adding a new subdivision thereto, as follows:

(B) Persons having an endorsement in administration/supervision, supervisor of instruction or principal on August 31, 1994, shall maintain such credential and shall not be required to complete the professional credentialing program as provided in this subsection.

On motion, Amendment No. 3 was adopted.

Rep. Winningham moved to adopt Amendment No. 4 as follows:

Amendment No. 4

Amend House Bill No. 2615 by adding the following as a new section to precede the effective date section:

SECTION _____. Tennessee Code Annotated, Section 49-1-302(a)(16), is amended by designating the existing language as subdivision (A), and by adding the following new subdivisions thereto:

() Any person who performs the duties of a supervisor of instruction, regardless of the title of such person's position, must have the credential required for a supervisor of instruction.

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() Persons having an endorsement as a supervisor of instruction on August 31, 1994 shall maintain such credential and shall not be required to complete the professional credentialing program as provided in this subsection.

On motion, Amendment No. 4 was adopted.

Rep. Rhinehart moved the previous question, which motion prevailed.

Rep. Davis moved that House Bill No. 2615, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	92
Noes	1
Present and not voting	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Turner (Shelby) -- 1.

Representatives present and not voting were: Pruitt -- 1.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE
April 4, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s), 407; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Joint Resolution No. 0407 -- Memorials, Sports -- 1993-1994 Battle Ground Academy boys' basketball team, TSSAA Class A state champions. by *Springer, *Jordan, *Patten, *Crutchfield, et. al.

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REGULAR CALENDAR, CONTINUED

House Bill No. 2145 -- Garnishments and Executions -- Increases exemption from execution, seizure or attachment for tools of trade from \$750 to \$7,500. Amends TCA 26-2-111.

On motion, House Bill No. 2145 was made to conform with **Senate Bill No. 1750**; the Senate Bill was substituted for the House Bill.

Rep. Arriola moved that **Senate Bill No. 1750** be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Arriola moved passage of **Senate Bill No. 1750** on third and final consideration, which motion failed by the following vote:

Ayes.	41
Noes.	47
Present and not voting.	7

Representatives voting aye were: Arriola, Bell, Bragg, Brooks, Brown, Buck, Chumney, Clark, Coffey, Crain, Davis, DeBerry, Ferguson, Fisher, Fowlkes, Halteman Harwell, Head, Hillis, Huskey, Jackson, Jones U (Shelby), Kernell, Liles, Love, Miller, Mires, Phillips, Purcell, Rhinehart, Robinson, Severance, Stamps, Stockburger, Stulce, Thompson, Turner (Hamilton), Venable, Westmoreland, Williams (Shelby), Windle, Winningham -- 41.

Representatives voting no were: Allen, Anderson, Bittle, Boyer, Byrd, Callicott, Chiles, Cole (Dyer), Collier, Cross, Davidson, Dixon, Duer, Givens, Gunnels, Haley, Hassell, Haun, Herron, Johnson, Jones R (Shelby), Joyce, Kent, Kisber, Lewis, McAfee, McDaniel, McKee, Meyer, Moore, Odom, Owenby, Peroulas Draper, Phelan, Pinion, Ramsey, Ridgeway, Rigsby, Rinks, Shirley, Turner (Shelby), Walley, Williams (Union), Williams (Williamson), Wix, Wood, Mr. Speaker Naifeh -- 47.

Representatives present and not voting were: Armstrong, Hargrove, Knight, Pruitt, Tindell, West, Whitson -- 7.

Having failed to receive a constitutional majority, the Speaker re-referred **House Bill No. 1750** to the Calendar and Rules Committee.

House Bill No. 2659 -- Mental Illness -- Authorizes person with master's degree in psychology, counseling, or marital and family therapy to do first certification for mentally ill persons under emergency commitment law. Amends TCA 33-6-103.

On motion, House Bill No. 2659 was made to conform with **Senate Bill No. 2484**; the Senate Bill was substituted for the House Bill.

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Rep. Arriola moved that Senate Bill No. 2484 be passed on third and final consideration.

CHAIR TO DEBERRY

Mr. Speaker Naifeh relinquished the Chair to Rep. DeBerry. Speaker pro tempore.

REGULAR CALENDAR, CONTINUED

Rep. Williams(Union) moved the previous question, which motion prevailed by the following vote:

Ayes.	71
Noes.	13
Present and not voting.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Brown, Buck, Byrd, Callicott, Chiles, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Haun, Head, Herron, Hillis, Huskey, Jackson, Jones U (Shelby), Kent, Kisber, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pruitt, Ridgeway, Rigsby, Rinks, Severance, Stamps, Stockburger, Stulce, Tindell, Turner (Shelby), Venable, Walley, West, Whitson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 71.

Representatives voting no were: Bragg, Brooks, Chumney, Clark, Hassell, Jones R (Shelby), Purcell, Rhinehart, Robinson, Shirley, Thompson, Turner (Hamilton), Westmoreland -- 13.

Representatives present and not voting were: Kernell, Knight -- 2.

Rep. Dixon moved that Senate Bill No. 2484 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	84
Noes.	8
Present and not voting.	3

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway,

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Rigsby, Rinks, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Shelby), Venable, Walley, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 84.

Representatives voting no were: Bragg, Clark, Purcell, Robinson, Turner (Hamilton), West, Westmoreland, Williams (Williamson) -- 8.

Representatives present and not voting were: Brooks, Jackson, Kernell -- 3.

A motion to reconsider was tabled.

House Bill No. 2590 -- Corporations -- Deletes requirement that domestic or foreign professional corporations file charter with licensing authorities prior to delivering services in Tennessee. Amends TCA 48-3-628.

Rep. Herron moved that House Bill No. 2590 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 2590 by deleting Section 1 in its entirety and by substituting instead the following new section:

Section 1. Tennessee Code Annotated, Section 48-3-628, is amended by adding the following words to the end of the first sentence:

if required by a rule promulgated by the licensing authority having authority over professional services rendered by employees of the corporation

AND FURTHER AMEND by adding the following as a new section immediately preceding the effective date section and by renumbering the effective date section accordingly:

Section _____. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

On motion, Amendment No. 1 was adopted.

Rep. Herron moved that **House Bill No. 2590**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

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Ayes.	94
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

House Bill No. 2102 -- Corporations -- Revises corporation law. Amends TCA, Title 48, Chs. 11, 12, 16--18, 21, 23.

On motion, House Bill No. 2102 was made to conform with **Senate Bill No. 2073**; the Senate Bill was substituted for the House Bill.

Rep. Jackson moved that **Senate Bill No. 2073** be passed on third and final consideration.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 2.

Rep. Jackson moved that **Senate Bill No. 2073** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	93
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell,

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Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 93.

A motion to reconsider was tabled.

***House Bill No. 2350 -- Alcoholic Offenses --** Redefines offense of flying under influence of an intoxicant; establishes implied consent for blood alcohol testing of persons acting as crew men of airplanes; establishes penalty for refusing to take such test. Amends TCA, Title 42, Ch. 1, Pt. 2.

Rep. Liles moved that House Bill No. 2350 be reset to the Calendar for Wednesday, April 6, 1994, which motion prevailed.

House Bill No. 2833 -- Motor Vehicles, Titling and Registration -- Authorizes issuance of special license plates for honorably discharged veterans of United States armed forces. Amends TCA, Title 55, Ch. 4.

Rep. Hillis moved that Senate Bill No. 2833 be reset one week to the Calendar for Monday, April 11, 1994, which motion prevailed.

House Bill No. 2086 -- Autopsies -- Authorizes chief medical examiner to appoint deputy medical examiners; makes certain procedural changes; authorizes issuance of subpoena for medical records. Amends TCA, Title 38, Ch. 7.

On motion, House Bill No. 2086 was made to conform with **Senate Bill No. 2025**; the Senate Bill was substituted for the House Bill.

Rep. Westmoreland moved that **Senate Bill No. 2025** be passed on third and final consideration.

On motion, Rep. Dixon withdrew Health and Human Resources Committee Amendment No. 1.

On motion, Rep. Dixon withdrew Health and Human Resources Committee Amendment No. 2.

On motion, Rep. Dixon withdrew Health and Human Resources Committee Amendment No. 4, as House Amendment No. 3.

Rep. Bittle moved the previous question, which motion prevailed.

Rep. Westmoreland moved that **Senate Bill No. 2025** be passed on third and final consideration.

Senate Bill No. 2025 passed on third and final consideration by the following vote:

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Ayes.	77
Noes.	14
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davis, Dixon, Duer, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Liles, Love, McAfee, McDaniel, Meyer, Miller, Mires, Odom, Owenby, Peroulas Draper, Phelan, Pruitt, Purcell, Ramsey, Rhinehart, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Williamson), Wix, Wood, Mr. Speaker Naifeh -- 77.

Representatives voting no were: Bell, Davidson, Ferguson, Johnson, Lewis, McKee, Moore, Phillips, Pinion, Rigsby, Williams (Shelby), Williams (Union), Windle, Winningham -- 14.

Representatives present and not voting were: Jones R (Shelby) -- 1.

A motion to reconsider was tabled.

CHAIR TO SPEAKER

Mr. Speaker Naifeh resumed the Chair.

REGULAR CALENDAR, CONTINUED

House Bill No. 2595 -- Cemeteries -- Provides that civil penalties imposed by commissioner on cemetery must be imposed in addition to, instead of in lieu of, penalties otherwise authorized by law. Amends TCA, Title 46, Ch. 1.

Rep. Dixon moved that House Bill No. 2595 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1, seconded by Rep. Dixon, as follows:

Amendment No. 1

Amend House Bill No. 2595 by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 46-1-108(e), is amended by adding the following language after the third sentence:

The advisory board shall consist of five (5) members.

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Prior to the end of the expiring term of each member of the advisory board, the Cemetery Association of Tennessee, Inc. shall submit a list of five (5) names to the commissioner. At least three (3) cemetery board members shall be selected from names submitted by the Cemetery Association of Tennessee, Inc.

On motion, Amendment No. 1 was adopted.

Rep. Dixon moved that **House Bill No. 2595**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

***Senate Bill No. 1763** -- Surveyors -- Authorizes board for land surveyors to permit registered land surveyors to perform limited non-monumentative surveying procedure called "mortgage loan inspection"; establishes minimum standards. Amends TCA 62-18-126.

Further consideration of **Senate Bill No. 1763**, previously considered on March 28, 1994, at which time House adopted Amendments Nos. 1, 2, 3, 5 and 6, withdrew Amendment No. 4, reset the bill to March 31, the motion was made to adopt Amendment No. 7; and the bill was reset to the Calendar for April 4, 1994.

Rep. Boyer moved that **Senate Bill No. 1763** be passed on third and final consideration.

Rep. Callicott requested that Amendment No. 7, previously filed, be moved to the heel of the Amendments.

Rep. Phelan requested that Amendment No. 8 be moved to the heel of the Amendments.

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Rep. Liles moved to adopt Amendment No. 9 as follows:

Amendment No. 9

Amend Senate Bill No. 1763 by deleting the figures "118,400" and "118,700" from the columns labeled "not less than" and "nor more than", respectively.

On motion, Amendment No. 9 was adopted.

Rep. Boyer moved to adopt Amendment No. 10 as follows:

Amendment No. 10

Amend Senate Bill No. 1763 by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1.

(a) Except as provided in subsection (b), the board shall permit registered land surveyors to perform a limited, nonmonumentation surveying procedure to be known as a "mortgage loan inspection". For such procedure, the board shall also establish minimum standards which are generally consistent with those procedures and minimum requirements recommended by the American Congress on Surveying and Mapping (ACSM) for mortgage loan inspections in the December 1973 edition of Surveying and Mapping (Quarterly Journal of ACSM).

(b) Notwithstanding any provision of law to the contrary, all limited nonmonumentation procedures or practices such as "mortgage loan inspections," "mortgage loan certificates," "mortgage title inspections," and "improvement loan certificates," are authorized as closing or loan surveys in any county having a population, according to the 1990 federal census or any subsequent federal census of:

<u>not less than</u>	<u>nor more than</u>
4,800	5,100
7,100	7,175
8,600	8,900
9,650	10,000
10,471	10,800
13,100	13,370
13,375	13,600
16,700	16,950
20,000	20,300
22,200	22,500
22,600	23,000
22,600	23,000

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24,600	24,900
25,700	26,000
27,500	27,750
31,500	31,800
31,900	32,200
32,900	33,000
34,850	35,000
35,050	35,070
46,000	46,500

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Severance moved the previous question, which motion prevailed.

On motion, Amendment No. 10 was adopted.

Rep. Hillis moved that Amendment No. 11 be withdrawn, which motion prevailed.

Rep. Gunnels moved to adopt Amendment No. 12 as follows:

Amendment No. 12

Amend Senate Bill No. 1763 by deleting from Section 1(b) the following:

<u>not less than</u>	<u>nor more than</u>
31,100	31,400
30,500	30,800

On motion, Amendment No. 12 was adopted.

Rep. Callicott moved that Amendment No. 7, previously filed, be withdrawn, which motion prevailed.

Rep. Phelan moved that Amendment No. 8 be withdrawn, which motion prevailed.

Rep. Boyer moved that **Senate Bill No. 1763**, as amended, be passed on third and final consideration.

Rep. Clark moved the previous question, which motion prevailed.

Rep. Boyer moved passage of **Senate Bill No. 1763**, as amended, on

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third and final consideration, which motion failed by the following vote:

Ayes.	47
Noes.	34
Present and not voting.	13

Representatives voting aye were: Armstrong, Bittle, Boyer, Bragg, Buck, Byrd, Chiles, Clark, Cole (Dyer), Davis, Duer, Ferguson, Fisher, Haley, Halteman Harwell, Hassell, Herron, Huskey, Jackson, Jones R (Shelby), Joyce, Kisber, Liles, Love, McAfee, McDaniel, McKee, Meyer, Odom, Peroulas Draper, Phelan, Phillips, Pruitt, Purcell, Ramsey, Robinson, Severance, Shirley, Stockburger, Stulce, Tindell, Turner (Hamilton), Venable, Walley, Westmoreland, Williams (Shelby), Wood -- 47.

Representatives voting no were: Allen, Anderson, Arriola, Bell, Coffey, Collier, Crain, Cross, Davidson, Fowlkes, Givens, Gunnels, Hargrove, Haun, Head, Hillis, Johnson, Lewis, Mires, Moore, Owenby, Pinion, Rhinehart, Ridgeway, Rigsby, Rinks, Stamps, Thompson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Mr. Speaker Naifeh -- 34.

Representatives present and not voting were: Brooks, Brown, Callicott, Chumney, DeBerry, Dixon, Jones U (Shelby), Kernell, Knight, Miller, Turner (Shelby), West, Whitson -- 13.

The Speaker re-referred House Bill No. 1763 to the Calendar and Rules Committee.

REQUEST TO CHANGE VOTE

Pursuant to Rule No. 31, the following member(s) desire to change their original stand from present not voting to no on Senate Bill No. 1763 and have this statement entered in the Journal: Rep(s). Whitson.

REGULAR CALENDAR, CONTINUED

House Bill No. 2309 -- Guardianship -- Removes \$10,000 threshold as requirement for appointment of fiduciary for distribution of funds to minor or disabled person. Amends TCA, Title 34, Ch. 11.

On motion, House Bill No. 2309 was made to conform with Senate Bill No. 2102; the Senate Bill was substituted for the House Bill.

Rep. Turner (Hamilton) moved that Senate Bill No. 2102 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

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Rep. Venable moved to adopt Amendment No. 2 as follows:

Amendment No. 2

Amend Senate Bill No. 2102 by adding the following new section immediately preceding the last section, as amended, and by renumbering the subsequent section accordingly:

Section _____. Tennessee Code Annotated, Section 34-11-111, is amended by adding the following language as a new, appropriately designated subsection:

() Notwithstanding any other provision of law to the contrary, if a conservator had been appointed to manage the property of a disabled person prior to January 1, 1988 for an estate of ten thousand dollars (\$10,000) or less, and failed to file a final accounting with the court for the property or estate subject to such conservatorship, such person shall for good cause shown not be held in contempt of court, charged with the value of the assets, or penalized in any way as provided in this section if a final accounting is made by such person within six (6) months after the effective date of this act, having been notified of the failure to make such final accounting. Interest shall begin to accrue on such account in accordance with subsection (g) after such six (6) month period.

On motion, Amendment No. 2 was adopted.

Rep. Chumney moved to adopt Amendment No. 3 as follows:

Amendment No. 3

Amend Senate Bill No. 2102 by deleting Section 8(d) and by substituting instead the following:

(d) If the fiduciary is a financial institution, it shall not be required to seek court approval to change any investment;

On motion, Amendment No. 3 was adopted.

Rep. Turner (Hamilton) moved that Senate Bill No. 2102, as amended, be passed on third and final consideration.

Rep. Clark moved the previous question, which motion prevailed.

Rep. moved that Senate Bill No. 2102, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

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Ayes.	94
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood -- 94.

A motion to reconsider was tabled.

UNFINISHED BUSINESS

RULES SUSPENDED

On motion of Rep. Purcell, with second by Rep. Bittle, the following rules were suspended, without objection, for the remainder of the 1994 legislative session:

Rule No. 49: the 48-hour rule so that all bills moved from Calendar and Rules could be set on the next day's floor calendar and more than 25 bills could be placed on the calendar(s).

Rule No. 50: the 72-hour rule for posting the Consent Calendar, so that local bills and other bills and resolutions coming out of Calendar and Rules could be placed on a Consent Calendar on a daily basis;

Rule No. 71: the 24-hour rule requiring all amendments to be placed on members' desks;

Rule No. 59: notice provision so that all bills from the Senate with messages could be announced and automatically placed on the next Message Calendar;

Rule No. 75: meeting time provision so that session could meet hours other than 9:00 a.m. to 12 noon and 2:00 p.m. to 7:00 p.m.;

Rule No. 80(1): so that all bills reported out of subcommittee could be hears on the next full committee calendar without waiting a week.

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RULES SUSPENDED

Rep. Williams (Williamson) moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 407 out of order, which motion prevailed.

Senate Joint Resolution No. 0407 -- Memorials, Sports -- 1993-1994 Battle Ground Academy boys' basketball team, TSSAA Class A state champions.

On motion, the rules were suspended for the immediate concurrence in the resolution.

On motion of Rep. Williams (Williamson), the resolution was concurred in.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE April 4, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1477; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

NOTICE TO ACT ON SENATE MESSAGES

Pursuant to **Rule No. 59**, the sponsor(s) gave notice of intent to consider the following measure(s) from the Senate on Wednesday, April 6, 1994:

House Bill No. 1477: Rep. Westmoreland.

House Bill No. 1866: Rep. Rhinehart.

Senate Bill No. 2015: Rep. Coffey.

Senate Bill No. 2452: Rep. Gunnels.

House Bill No. 2728: Rep. Duer.

RULES SUSPENDED

Rep. Callicott moved to suspend the rules for the immediate introduction of House Joint Resolution No. 630, which motion prevailed.

Rep. Callicott moved to suspend the rules so that House Joint Resolution No. 630 could be placed on the Calendar for Thursday,

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April 7. which motion prevailed.

House Joint Resolution No. 0630 -- Memorials, Professional Achievement -- Joe "Black Cat" Riley, 65th year with Nashville Banner.

RULES SUSPENDED

Rep. Purcell moved that House Bill No. 2223 be substituted for House Bill No. 2227, earlier placed on the Civil Practice subcommittee of Judiciary Committee Calendar in error, which motion prevailed.

SPONSORS ADDED

Under Rule No. 43, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 1683: Rep(s). Odom as sponsor(s).

House Bill No. 2134: Rep(s). Williams (Williamson) as sponsor(s).

House Bill No. 2350: Rep(s). Knight as sponsor(s).

House Bill No. 2395: Rep(s). Givens as sponsor(s).

House Bill No. 2556: Rep(s). Walley as sponsor(s).

House Bill No. 2574: Rep(s). Bittle, Dixon, Givens, Haley, Kent, Knight, McAfee as sponsor(s).

House Bill No. 2615: Rep(s). Bell, Bragg, Boyer, Buck, Callicott, Cole (Dyer), Davidson, Duer, Givens, Haley, Hargrove, Hillis, Jones R (Shelby), Joyce, Kent, Lewis, Liles, Love, McAfee, McDaniel, Mires, Moore, Phelan, Phillips, Pinion, Ramsey, Rhinehart, Severance, Stamps, Stockburger, Stulce, Turner (Hamilton), Walley, West, Williams (Union), Windle, Wix, Wood as sponsor(s).

House Bill No. 2801: Rep(s). Byrd, Duer, Kent, Kisber, Ridgeway, Turner (Hamilton), Williams (Shelby) as sponsor(s).

House Bill No. 2808: Rep(s). Arriola as sponsor(s).

House Bill No. 2833: Rep(s). Givens as sponsor(s).

House Bill No. 2905: Rep(s). Phelan and Ridgeway as sponsor(s).

House Resolution No. 139: Rep(s). Ridgeway as sponsor(s).

MONDAY, APRIL 4, 1994 -- EIGHTY-SECOND LEGISLATIVE DAY

REQUEST TO BE ADDED AS SPONSOR

The following member(s) requested to add their name(s) as sponsor(s) as indicated below, the prime sponsor having agreed to such addition. Sponsorship was not granted since request was made after passage/adoption of said bill/resolution:

House Joint Resolution No. 407: Rep(s). Jackson.

House Bill No. 2257: Rep(s). Stockburger.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1112, 1380, 2021, 2128 and 2488; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 371, 415, 432, 434, 472, 492, 493, 502 and 503; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

ENGROSSED BILLS

April 4, 1994

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 2348.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 432; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Joint Resolution No. 432 -- Memorials, Sports --
1993-1994 Science Hill High School boys' basketball team, TSSAA
Class AAA state champions. by *Crowe.

MONDAY, APRIL 4, 1994 -- EIGHTY-SECOND LEGISLATIVE DAY

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2240 and 2348; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

ENGROSSED BILLS

April 4, 1994

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 2287, 2323, 2395, 2590, 2595, 2615, 2682, 2801, 2821, 2842, 2892, 2893, 2894, 2895, 2896 and 2899; also, House Joint Resolution(s) No(s). 401, 487, 499, 517, 529, 545, 611, 612, 613, 614, 615, 616.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1768, 1876, 1959, 2238, 2364, 2532, 2544, 2545 and 2748; also, House Joint Resolution(s) No(s). 454, 552, 553, 555, 557, 559 and 563; signed by the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 4, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 1765, 1899, 1948, 1951, 1971, 2440, 2663, 2727 and 2759; also, Senate Joint Resolution(s) No(s). 387, 388, 394, 396, 398 and 405; for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

CONSENT CALENDAR

The following local bills were placed on the Consent Calendar for Wednesday, April 6, 1994: House Bill No. 2879. The following resolution was placed on the Consent Calendar for Wednesday, April 6, 1994: Senate Joint Resolution No. 432.

ROLL CALL

The roll call was taken with the following results:

MONDAY, APRIL 4, 1994 -- EIGHTY-SECOND LEGISLATIVE DAY

Present 95

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), William (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh - 95.

On motion of Rep. Purcell, the House recessed until 2:00 P.M. Wednesday, April 6, 1994.